

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of Telephone  
Number Portability

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CC Docket No. 95-116  
RM 8535

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COMMENTS OF THE  
ILLINOIS COMMERCE COMMISSION

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## Summary

Illinois has been one of the leading states in the development of long-term service provider number portability, and it plans to continue the current schedule to implement number portability in the Chicago area. In a sense, Illinois' continued progress with number portability is now mandated by the Federal Communications Commission's (FCC) Order in Docket 95-116, which requires Illinois to complete a field test by August 30, 1997. Because of this Illinois-specific timeline, cost recovery issues on which the FCC requests comment in its Further Notice of Proposed Rulemaking (FNPRM) will need to be addressed in Illinois proceedings prior to the issuance of final FCC rules. The ICC plans to develop cost recovery rules of its own, and would consider modifications to those rules if needed in light of the final FCC cost recovery rules.

While a pending rulemaking on number portability precludes the ICC from commenting on many of the issues in the FCC FNPRM, the ICC looks forward to sharing its work with the FCC and cooperating with the FCC to ensure that long-term number portability becomes a reality. The ICC urges the FCC not to take steps in the FNPRM that might prevent or delay implementation of number portability in Illinois.

The ICC believes that the requirement in the Telecommunications Act of 1996 that number portability costs must

be borne by all telecommunications carriers on a competitively neutral basis is sound public policy. The advance of local exchange competition depends on each carrier's ability to compete for customers in the marketplace. However, the recovery of number portability costs, be it from telecommunications carriers or end users, is affected greatly by each state's rules, regulations, and statutes. Any FCC guidelines for cost recovery should be flexible enough to accommodate such differences among states.

The ICC requests that the FCC allow Illinois to submit any relevant orders or other materials to the FCC as they become available.

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COMMENTS OF THE  
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The Illinois Commerce Commission (ICC) respectfully submits its comments to the Federal Communications Commission (FCC) in the above captioned proceeding. The ICC is the state regulatory body charged with the regulation of investor-owned telecommunications carriers in Illinois and has submitted comments to the FCC in response to its initial Notice of Proposed Rulemaking in this proceeding. This matter is of interest to the ICC due to the steps it has taken to develop and implement a long-term number portability solution in Illinois.

The ICC commends the FCC for the manner in which it has addressed the issue of long-term number portability in its First Report and Order in CC Docket No. 95-116. The First Report and Order appropriately recognizes the progress made by several states, including Illinois, in developing number portability, and will extend the benefits of number portability nationwide. The

FCC's determination that states may choose to opt out of regional databases and, instead, implement state-specific databases will allow Illinois' efforts to continue. However, Illinois will need to address cost recovery issues while the FCC's Further Notice of Proposed Rulemaking on cost recovery proceeds.

## I. Introduction

The ICC actively promotes competition and the removal of entry barriers to create a fertile environment for local exchange competition. As part of those efforts the ICC has ordered that permanent number portability be implemented in Illinois. The ICC believes so strongly in the necessity of number portability that its Order stated, "the issue is no longer whether - but when and how - to implement number portability in Illinois."<sup>1</sup> The ICC required that an industry task force be formed with the goal of developing a long-term number portability solution. The task force has achieved broad industry support for its recommendations to the ICC regarding permanent number portability.

The task force has accomplished a great deal in developing a permanent number portability solution and in working toward the implementation of that solution. Location Routing Number (LRN), as referenced numerous times in the FCC Order, was chosen by the Illinois task force and adopted by the ICC for implementation in the Chicago area. As the FCC stated, many

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<sup>1</sup>Customers First Order, Docket 94-0096, et al., Consol., April 7, 1995, at 110.

states have followed Illinois' lead in adopting LRN as their permanent number portability standard. It is the understanding of the ICC that the Illinois task force is continuing its efforts to meet an implementation goal of July 1, 1997 while working to fulfill the FCC's field test requirement.

Implementation cannot be accomplished without first having in place a mechanism for cost recovery. For this reason, the ICC has decided to keep moving forward on the issue of cost recovery in Illinois. While the ICC's ongoing number portability rulemaking (Docket 96-0128) prevents it from addressing many of the items in the FCC FNPRM, we will comment on certain items that are not pending in the Illinois proceeding.

## II. Cost Recovery Rules

Section 251(e)(2) of the Telecommunications Act of 1996 (the Act) states that, "The cost of establishing...number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the (FCC)." In paragraph 209, the FCC tentatively concludes that this section of the Act does not address recovery of number portability costs from consumers, but only allocation of such costs among carriers.

The ICC agrees with the basic tenet that cost recovery from consumers is separate from cost allocation among carriers. Cost allocation is the means by which the costs for number portability are spread among "all telecommunications carriers." Cost recovery is the means by which those carriers then recover

from their customers the portion of the costs allocated to them. The ICC further agrees that the FCC has correctly interpreted this aspect of section 251(e)(2), since it refers only to carriers, not consumers. For this reason, the term "cost allocation" is a more appropriate term than "cost recovery," although the FCC uses the term "cost recovery" throughout its rulemaking.

In paragraph 211, the FCC tentatively concludes that the pricing for state-specific databases, in those states that opt out of the national database plan, should be governed by the pricing principles established in this proceeding. The ICC acknowledges that the Act's requirement that the FCC establish regulations to ensure that number portability costs are borne on a competitively neutral basis extends to those states that may choose to implement a state-specific database.

In paragraph 210, the FCC tentatively concludes that any cost recovery method for long-term number portability costs should comply with the general principles the FCC has adopted for currently available interim number portability measures. However, the FCC then proposes to go beyond the adoption of general principles, and reaches tentative conclusions that would result in extensive and detailed federal requirements on cost recovery.

The ICC agrees with the need to adopt general principles for competitively neutral allocation of number portability costs. Broad national guidelines are preferable to detailed,

prescriptive requirements. The ICC believes that the FCC's proposed detailed regulations for cost allocation or recovery will restrict a state's ability to include intrastate factors in any cost allocation or recovery mechanism.

States should be allowed to develop state-specific cost allocation mechanisms that comply with broad FCC guidelines. The FCC should not impose requirements regarding intrastate consumer rates, except to the limited extent needed to ensure competitive neutrality among carriers. Further, the FCC should not develop specific cost allocation or recovery mechanisms that fail to take into account state-specific factors.

In paragraph 212, the FCC seeks comment on whether the costs of regional databases should be recovered on a nationwide or regional basis. The ICC believes that national pooling or averaging of regional industry costs (or state-specific industry costs for states that create state-specific databases) may reduce incentives to incur costs in the most economically efficient manner and may lead to undesirable regional cross-subsidizations. The ICC sees no reason why nationwide cost allocation or recovery is necessary to ensure competitive neutrality. For these reasons, the costs of regional or state-specific databases should be allocated and recovered on a regional or state-specific basis. The ICC will not comment on the methods proposed to be used to allocate database costs among carriers or recover such costs from customers, since those issues are pending in Docket 96-0128.

In paragraphs 221-225, the FCC seeks comment on cost

recovery of those carrier-specific costs related directly to number portability. In paragraphs 226-229, the FCC seeks comment on cost recovery of carrier-specific costs such as network upgrades that are not directly related to number portability but that are necessary to implement number portability. Again, the ICC cannot comment on these issues, since they are pending in Docket 96-0128.

In paragraph 230, the FCC seeks comment on the appropriate federal price cap treatment if the FCC were to specify a particular method of cost recovery from end users. The ICC recognizes that the FCC may allocate some portion of number portability costs to the interstate jurisdiction. Indeed, there are arguments that the existing separations process is the appropriate mechanism for allocation of number portability costs between interstate and intrastate jurisdictions.<sup>2</sup> If it is determined that some number portability costs are interstate in nature, the FCC must determine the appropriate federal price cap treatment for companies subject to the federal price cap mechanism. The ICC reiterates, however, that the Act did not remove or reduce state jurisdiction over intrastate rate design, except to the extent FCC guidelines are needed to ensure

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<sup>2</sup>See the Number Portability Resolution adopted by the National Association of Regulatory Utility Commissioners (NARUC) on July 25, 1996. The ICC's comments are consistent with the NARUC resolution regarding the need for broad national policy guidelines and the need for regional recovery of regional costs. The ICC is not taking a position on the issues raised by NARUC regarding separations and the allocation of costs among carriers, due to the pending Illinois docket.

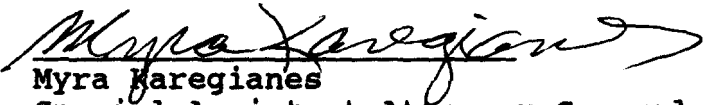
competitive neutrality among carriers.

### III. Conclusion

The ICC is actively working to meet its own implementation goals consistent with the FCC's First Report and Order in CC Docket No. 95-116. Any FCC guidelines or rules adopted as a result of the FNPRM on cost recovery should not delay or hinder the efforts in Illinois or other states, but should allow the flexibility for states to make their own decisions based on local conditions. Because of these ongoing efforts, the ICC requests that the FCC allow Illinois to submit any relevant orders or other materials to the FCC as they become available. The ICC appreciates this opportunity to convey its comments and looks forward to working with the FCC in implementing long-term number portability in the local exchange.

Respectfully Submitted,

Illinois Commerce Commission

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